

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 936 OF 2006**

Dhananjay Kalidas Bhambure)
Age-28 yrs. Occu.-Service,)
R/o.-Dighandchi, Tal.-At Padi,) ...Appellant,
Dist.-Sangli.) (Orig. Petitioner)

versus

- 1 The Maharashtra State Road)
Transport Corporation, Bombay.)
2 Annaso Bapu Miraje)
Age-36, Occu-Driver.)
3 Dagadu Piraji Chopade) ...Respondents
Age-43, Occu-Conductor.) (Orig. Opponents)

Mr. Tejpal Ingale, Advocate for the Appellant.

Ms. P. M.Bhansali i/b. Mr. G. S. Hegde, Advocate for Respondent
No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 14th MARCH 2023.

Oral Judgment :

1. By way of this appeal, the appellant/claimant is seeking enhancement of compensation.

2. It is contention of learned counsel for the appellant/claimant that claimant was injured in the accident and there is amputation of left leg above the knee due to the said accidental injury. Learned counsel further submits that the right leg was also fractured in the said accident and two surgeries were performed on it. At the time of the accident, the claimant was working as a clerk in Sangli District Central Seeds Producers Cooperative Society. He was drawing monthly salary of Rs.2000/-. Due to amputation of leg, he was terminated from service but this fact is not considered by the Tribunal and the Tribunal has considered only 50% disability, which is improper. Learned counsel further submits that the Tribunal has not awarded compensation for pain and suffering and future prospects and wrong multiplier has been applied. Hence, requested to allow the appeal.

3. It is contention of learned counsel for respondent No.1 that no evidence was produced before the Tribunal to prove that the claimant was terminated from the service. The claimant is using

crutches and he can walk easily. The Tribunal has considered all the aspects and, on that basis, compensation is awarded. No interference is required in it.

4. I have heard both learned counsel, perused the judgment and order passed by Motor Accident Claims Tribunal, Sangli (for short “the Tribunal”).

5. It is claimants case that the accident occurred on 4th July 1993 when the claimant was travelling in city bus by holding the front door but the said bus moved suddenly, therefore, the claimant fell down on road and rear wheel of the bus passed over his legs, he was injured in the accident, an offence was registered against the bus driver for negligence. To prove the disability, the claimant has examined himself at Exhibit “20”. He has stated that he was standing at front door of bus on the foot board, as there was no space inside the bus due to heavy crowd. The bus driver stopped the bus due to traffic jam but thereafter the bus driver started the bus suddenly, due to jerk, he fell down on road and rear wheel of the bus passed over his legs and he was injured in the said accident. He further stated that he was admitted in the hospital. His left leg was

amputated below the thigh, his right leg was operated and six rods were inserted in it. He was admitted in hospital for two months. This witness further stated that due to accidental injuries, he was unable to do any work, hence, his employer removed him from service. He could not get married due to physical disability. Nothing elicited in his cross-examination. In support of evidence of this witness, the claimant has examined Manik Lohar at Exhibit "22", who was co-passenger in the said bus, this witness has stated that accident occurred due to sudden starting of bus and due to jerk. Nothing elicited in cross-examination of this witness. At Exhibit "47" is the medical certificate issued by the General Hospital, Sangli. It gives details of the injuries suffered by the claimant on right thigh and left leg. At Exhibit "37" there is permanent disability certificate issued by the R.M.O. General Hospital, Sangli. Prima facie from the above certificate, it is seen that left leg above knee of the petitioner is amputated. He suffered permanent disability to the extent of 50%. Exhibit "38" is disability certificate issued by Wanless Hospital, Miraj, It also refers to permanent physical disability to the extent of 50% on account of amputation of left leg above knee. There was fracture in the right leg also. The claimant was treated in the hospital for about two months as indoor patient.

6. It is contention of learned counsel for the claimant that the disability should be 100% and not 50% as the claimant has lost his job after the accident. Exhibit "49" shows that the claimant could not join the service after the accident. It strengthens the claim of the claimant that due to accidental injuries, he was unable to do any work but Tribunal has considered 50% disability. Though there is 50% disability but there is 100% functional disability. Hence, I am considering 100% functional disability. The Tribunal has not awarded future prospects. As there is 100% functional disability, the claimant is entitled for future prospects. The Tribunal has awarded compensation on lower side under various heads, it should be increased.

7. Considering the above calculations, the claimant is entitled for following compensation :

Net Salary (per month)	Rs. 2,000.00
Future prospects 50% (per month)	Rs. 1,000.00
Total (per month)	Rs. 3,000.00
Annual Income Rs. 3000.00 x 12 months	Rs. 36,000.00
Rs.36,000.00 x 18 (multiplier) since deceased was 22 year old.	Rs. 6,48,000.00

Future Medical Expenses	Rs. 20,000.00
Attendants	Rs. 4,500.00
Towards Jaypur Foot and Fittings	Rs. 50,000.00
Physical Pain & Sufferings	Rs. 25,000.00
Loss of amenities of life	Rs. 50,000.00
Loss of marriage prospects	Rs. 25,000.00
Total	Rs. 8,22,500.00
Less Compensation granted by Tribunal (rounded up)	Rs. 2,20,000.00
Enhanced Amount	Rs. 6,02,500.00

Thus, the claimant is entitled additional amount of Rs.6,02,500/-.

8. In view of above, I pass following order :

ORDER

1. The appeal is allowed.
2. The claimant is entitled for additional amount of Rs.6,02,500/- along with 7.5% interest per annum from date of filing of the petition till realisation of the amount.

3. Respondent No.1 shall deposit the additional amount along with accrued interest thereon within eight weeks from receipt of this order.
4. The claimant is permitted to withdraw the deposited amount along with accrued interest thereon.

The appeal stands disposed of.

9. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)